IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 16767 of 2004

Between:

Sivadalla Surya Bhaskara Rao, S/o.Venkata Ratnam,
Senior Civil Judge' court, Narasapur, West Godavadi District.

..... PETITIONER

AND

1 The District Judge, West Godavari District, Eluru.
2 The Senior civil Judge (Enquiry officer),) (Tanuku,

W.G.District.)
(R2 is deleted by suo moto order dt. 23-9-2004 in
WP 16767 of 2004)

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to quash the disciplinary proceedings dated 1-9-2004 issued by the 1st respondent herein as arbitrary, illegal and unjust by issuing appropriate writ of certiorary or any other writ or order or direction and pass.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No.1: MR.C.V.NAGARJUNA REDDY

The Court made the following :

Order: (Per Sri BRSR.J)

We have heard the learned counsel for the petitioner and Sri CV Nagarjuna Reddy, learned counsel for the respondent. Issue Rule nisi.

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to quash the disciplinary proceedings dated 1.9.2004 initiated by the 1st respondent herein against him.

The petitioner in substance is challenging the action of the 1st respondent in issuing three proceedings simultaneously dated 1.9.2004 viz., 1) directing the petitioner to show cause within three days as to why disciplinary proceedings should not be initiated against him, (2) framing charges and directing the petitioner to file written statement or defence and 3) straight away appointing an enquiry officer even before the petitioner submitted the written statement or defence.

It is rather surprising that a senior officer heading the district unit of the judiciary could have initiated such proceedings without complying with the principles of

natural justice. It is obviously a case where the 1st respondent failed to apply his mind and proceeded against the petitioner in undue haste.

However, we are not inclined to quash the very show cause notice dated 1.9.2004 issued by the 1st respondent requiring the petitioner to submit his explanation as to why the disciplinary proceedings should not be initiated against him. We are in agreement with the submission made by the learned counsel for the petitioner that the charge memo and appointment of enquiry officer are to be quashed. Both the proceedings viz., the charge memo and as well as the proceedings appointing the 2nd respondent as an enquiry officer are accordingly quashed.

The petitioner shall submit his explanation to the show cause notice dated 1.9.2004, if the same is not yet submitted within a period of two weeks from today. It shall be duly taken into consideration by the 1st respondent herein in accordance with law. Having regard to the facts and circumstances of the case, we consider it appropriate to direct the 1st respondent herein to transfer the proceedings to the 1st Additional District Judge, West Godavari, Eluru who shall consider the explanation to be submitted by the petitioner and pass appropriate orders in accordance with law.

The Writ petition is allowed to the extent indicated above.

(B.SUDERSHAN REDDY,J)

Dated 11.11.2004

(K.C.BHANU,J)

msv.

Note: Issue CC by Tuesday

(B/o)

msv.

Rule nisi has been made absolute. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the eleventh day of November, Two Thousand and Four.

To

1 The District Judge, West Godavari District, Eluru.
2. 2 CD copies